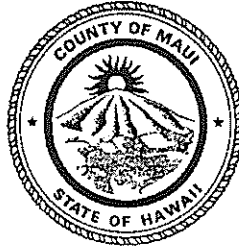


LANCE HOLTER ■  
Chairman

WARREN SHIBUYA  
Vice-Chairman



COUNTY OF MAUI  
**BOARD OF VARIANCES AND APPEALS**

KATHLEEN ACKS  
Board Member

UWE SHULZ  
Board Member

HARJINDER AJMANI  
Board Member

JAMES SHEFTE  
Board Member

RANDALL ENDO  
Board Member

WILLIAM KAMAI  
Board Member

**AMENDED VARIANCE AND APPEAL APPLICATIONS PROCEDURES**  
**APPEAL APPLICATION**  
**(NOTICE OF APPEAL)**

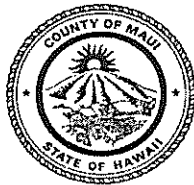
Pursuant to §12-801-18(c), Rules of Practice and Procedure for the Board of Variances and Appeals, at its regularly scheduled meeting on May 11, 2006, the Board determined that the following number of copies be submitted to the Department of Planning, for all applications for variances, appeals, contested cases, and other related pleadings/motions.

DESCRIPTION		COPIES
<b>Variance Applications</b> (Titles 12, 16, 18 and 19)		1 original + 25
<b>Appeal Applications</b> (Notices of Appeal) (Titles 12, 13, 16, 18 and 19)		1 original + 25
<b>Contested Cases:</b>	Pleadings	1 original + 3
	Proposed Findings of Fact, Conclusions of Law, Decision and Order	1 original + 3
	Hearing Officer's Report and Recommendations	1 original + 3
	Exceptions to the Hearing Officer's Report	1 original + 25
	Support of Hearing Officer's Report	1 original + 25
<b>All Other Pleadings/Motions</b> (Outside of Contested Cases)		1 original + 25

ALAN M. ARAKAWA  
Mayor

MICHAEL W. FOLEY  
Director

DON COUCH  
Deputy Director



COUNTY OF MAUI  
DEPARTMENT OF PLANNING

**APPEAL APPLICATION REQUIREMENTS**  
**(NOTICE OF APPEAL)**

Pursuant to §12-801-80, Rules of Practice and Procedure of the Board of Variances and Appeals (BVA Rules), and Maui County Code (MCC), §19.520.020, the following will be required for initiation of an application for an appeal.

1. Completed application form (Notice of Appeal). **(25 copies)** (Form 1)
2. A written analysis by the aggrieved person justifying the appeal. **(25 Copies)** (Form 2)
3. Documents which identify the owner of the subject property.
4. If the appellant is not the owner, provide notarized written authorization from the owner for the appeal.
5. A location map identifying the site, adjacent roadways, and identifying landmarks. **(25 copies)** (8.5 x 11 sheet of paper)
6. Filing fee (see Fee Schedule, Table A ) payable to *County of Maui, Director of Finance*.
7. Proof that service of the notice of appeal was made on all parties to the appeal. **(Form 3)** Said proof of service may be submitted within seven (7) days after the filing of the notice of appeal. Failure to provide a proof of service may result in an incomplete application, thus forfeiting your right to appeal.

**Note:** Pursuant to §12-801-84, BVA Rules, the appellant shall serve a file marked copy of the appeal, by mail or hand-delivery, to the Department of Corporation Counsel, in addition to the Department being appealed from.

## **APPEAL REGULATIONS AND GENERAL DEADLINES**

1. Pursuant to §8-8.7 of the Revised Charter of the County of Maui (1983), as amended, and MCC, §19.520.040, the Board of Variances and Appeals (Board) shall hear and determine appeals alleging error from any person aggrieved by a decision or order of any department charged with the enforcement of zoning, subdivision, or building ordinances which is within the jurisdiction of the Board of Variances and Appeals (Board).
2. Pursuant to §12-801-79, BVA Rules, an appeal permitted by law from the decision or order of any department to the Board may be taken by the filing of a notice of appeal, along with the applicable processing fee, within the time period specified by law. Where no such time period is specified, the appeal shall be filed not later than thirty (30) days after the date of the written decision or order from which appeal is sought. The following deadlines apply:

<b>MCC TITLE</b>	<b>DEADLINE TO APPEAL</b>
Title 12 (Streets, Sidewalks and Public Places) (MCC, §12.08190)	30 days
Title 13 (Parks and Recreation) (MCC, §13.04.125; §12-801-79, BVA Rules)	30 days
Title 16 (Buildings and Construction) (MCC, §16.08.250)	30 days
Title 18 (Subdivisions) Decision and Order (MCC, §18.36.010)	15 days
Title 19 (Zoning) (§12-801-79, BVA Rules)	30 days

3. Pursuant to MCC, §19.520.030, within ten (10) business days after receipt of the appeals application, the Department of Planning will schedule a meeting date on the agenda of the Board of Variances and Appeals provided the application is determined to be complete. The appeals application will be returned to the appellant if it is determined to be incomplete.
2. Pursuant to MCC, §19.520.020(B)(2) and §12-801-12, BVA Rules, not less than six (6) business days prior to the meeting date on an appeal, the Planning Director shall transmit the Board's agenda to the applicant, and all interested parties.
3. Pursuant to MCC, §12-801-80.1 and §12-801-36, BVA Rules, at the first meeting date, the appeal shall be processed as a contested case, where a hearing officer, which may be the Board, shall be appointed to preside over the matter.
4. The hearing officer shall conduct a contested case hearing, pursuant to subchapters 3, 4 and 5, BVA Rules.

5. The hearing officer shall prepare and submit to the Board a report setting forth recommended findings of fact, conclusions of law, and a proposed decision and order. The Board shall take final action of approval or denial of the hearing officer's recommendations.
6. The Board shall issue a written decision and order to the applicant within forty-five (45) days from the presentation of the oral arguments by the parties.
7. Pursuant to Hawaii Revised Statutes, §91-14, should the applicant, or any aggrieved party wish to appeal the Board's final decision and order, it must be filed with the Circuit Court of the Second Judicial Circuit within thirty (30) days from the date of mailing of said decision and order by certified mail.

**APPEAL APPLICATION**  
**(NOTICE OF APPEAL)**

PROPERTY OWNER'S NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

PROPERTY OWNER'S MAILING ADDRESS: \_\_\_\_\_

\_\_\_\_\_

APPELLANT'S NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

APPELLANT'S MAILING ADDRESS: \_\_\_\_\_

\_\_\_\_\_

APPELLANT'S INTEREST, IF NOT OWNER: \_\_\_\_\_

DEADLINE FOR FILING APPEAL: \_\_\_\_\_ (SEE CORRESPONDING  
COUNTY CODE OR APPROPRIATE RULE FOR DEADLINES IN FILING AN APPEAL)

PROJECT NAME: \_\_\_\_\_ PROJECT TMK: \_\_\_\_\_

PROJECT ADDRESS: \_\_\_\_\_

\_\_\_\_\_

APPLICABLE ORDINANCE(S) AND SECTION(S) IN QUESTION: \_\_\_\_\_

\_\_\_\_\_

PURPOSE OF THE REQUEST: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

APPELLANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

## **JUSTIFICATION FOR APPEAL**

In order for the Board to grant the subject appeal, the Board need only to find one of the following:

1. That subject decision or order was based on an erroneous finding of material fact or erroneously applied to the law.

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2. That the subject decision or order was arbitrary or capricious in its application.

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3. That the subject decision or order was a clearly unwarranted abuse of discretion.

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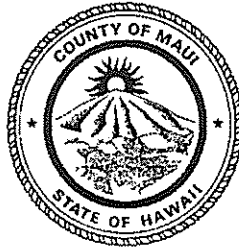
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LANCE HOLTER  
Chairman

WARREN SHIBUYA  
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WILLIAM KAMAI  
Board Member

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the preceding document was submitted to the Department of Planning, and was served on the date indicated below upon the following Departments by hand-delivery and/or certified mail (check boxes that apply).

**Certified  
Mail**

**Personal  
Delivery**

☐☐

\_\_\_\_\_  
[Appellee's Name, Title (Director)]

\_\_\_\_\_  
[Department]

\_\_\_\_\_  
[Address]

\_\_\_\_\_  
[City, State, Zipcode]

BRIAN MOTO, ESQ. CORPORATION COUNSEL  
DEPARTMENT OF CORPORATION COUNSEL  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

☐☐

Dated at \_\_\_\_\_, Maui, Hawai'i, this \_\_\_\_ day of  
(City) (#)

\_\_\_\_\_, 2006.

(Month)

\_\_\_\_\_  
(Appellant's Signature)

\_\_\_\_\_  
(Appellant's Name)

(FORM 3)

S:\ALL\FORMS\APPL\FORMS\BVA\Appeal\_App.wpd

(Revised 06.06)

COUNTY OF MAUI  
REVENUES - RATES, FEES AND ASSESSMENTS

ACCOUNT REVENUE SOURCE NUMBER	RATE, FEE OR ASSESSMENT	HRS NUMBER	COUNTY CODE	ORDINANCE NUMBER
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GENERAL FUND (CONT'D)

CHARGES FOR CURRENT SERVICES (CONT'D):

Planning Department Fees      Table A - Fee Schedule (Public Hearing Required)      Title 19

Change of Zoning	Conditional Permit
Community Plan Amendment	State Boundary Amendment
Project District Zoning	BVA Variance and Appeals
County Special Use Permit	State Special Use Permit
Project Master Plan Review	Shoreline Setback Variances
Environmental Assessments (non-exempt)	Special Management Area Permits (non-exempt)

<u>Total Valuation</u>	<u>Fee</u>
\$0.00 to \$125,000	\$550
\$125,000 to \$500,000	\$550 for the first \$125,001, plus \$11 for each additional \$5,000 or fraction thereof, to and including \$500,000

Additional review required  
by changes, additions,  
revisions, time extensions  
or renewals:      \$165

\$500,001 to \$1,000,000	\$1,370 for the first \$500,001, plus \$11 for each additional \$5,000 or fraction thereof, to and including \$1,000,000
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Additional review required  
by changes, additions,  
revisions, time extensions  
or renewal:      \$275

\$1,000,001 and up	\$2,475 for the first \$1,000,001, plus \$11 for each additional \$5,000 or fraction thereof, to a maximum of \$4,950
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Additional review required  
by changes, additions,  
revisions, time extensions  
or renewals:      \$550



## CALCULATION OF FEES

Total Valuation of Project: \$ \_\_\_\_\_

☐ \$0.00 to \$125,000 (Valuation) **\$550.00**

\*\*\*\*\*

☐ \$125,000 to \$500,000 (Valuation) **\$550.00** (First \$125,001)

Plus \$11 for each additional \$5,000 or fraction thereof, to and including \$500,000

(Valuation) - \$125,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ ÷ \$5,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ x \$11.00 = +\$ \_\_\_\_\_

**SUBTOTAL (AMOUNT DUE)** \$ \_\_\_\_\_

\*\*\*\*\*

☐ \$500,000 to \$1,000,000 (Valuation) **\$1,370.00** (First \$500,001)

Plus \$11 for each additional \$5,000 or fraction thereof, to and including \$1,000,000

(Valuation) - \$500,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ ÷ \$5,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ x \$11.00 = +\$ \_\_\_\_\_

**SUBTOTAL (AMOUNT DUE)** \$ \_\_\_\_\_

\*\*\*\*\*

☐ \$1,000,001 and up (Valuation) **\$2,475.00** (First \$1,000,001)

Plus \$11 for each additional \$5,000 or fraction thereof, to a maximum of \$4,950

(Valuation) - \$1,000,001 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ ÷ \$5,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ x \$11.00 = +\$ \_\_\_\_\_

**SUBTOTAL (AMOUNT DUE)** \$ \_\_\_\_\_ (Not to Exceed \$4,950)

\*\*\*\*\*

If Multiple Concurrent Permit Applications are being processed by the Planning Department at the same time, the first application shall be charged the full fee while each additional application will be charged 50% of the of the normal fee.

Permit 2: \_\_\_\_\_ \$ \_\_\_\_\_

Permit 3: \_\_\_\_\_ \$ \_\_\_\_\_

Permit 4: \_\_\_\_\_ \$ \_\_\_\_\_

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**TOTAL REMITTED** \$ \_\_\_\_\_